

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION
NO. 5:18-cv-006**

BARRY DAMON MALLATERE

Plaintiff,

v.

**TOWN OF BOONE, a North Carolina
Municipal Corporation,**

Defendant.

ORDER

THIS MATTER is before the Court on the Motion to Dismiss (Doc. No. 7) filed on behalf of the Defendant, Town of Boone.

Plaintiff filed his Complaint on January 10, 2018. After receiving an extension of time to answer, Defendant filed a Motion to Dismiss on March 26, 2018. Plaintiff then timely filed an Amended Complaint in accordance with Fed. R. Civ. P. Rule 15 on April 14, 2018. Defendant's Motion to Dismiss has been rendered moot by Plaintiff's Amended Complaint.

THEREFORE Defendant's Motion to Dismiss (Doc. No. 7) is hereby **DISMISSED WITHOUT PREJUDICE**. Defendant shall file its responsive pleading to the Amended Complaint within the time allotted by the Federal Rules of Civil Procedure.

SO ORDERED.

Signed: April 16, 2018



Graham C. Mullen
United States District Judge

